

APPENDIX V

Draft General Conformity Determination

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Sea Port Oil Terminal Deepwater Port Project Draft General Conformity Determination

January 2020

Revised September 2021

Maritime Administration
U.S. Coast Guard

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LIST OF ATTACHMENTS

Attachment A TCEQ Concurrence Letter

ACRONYMS AND ABBREVIATIONS

Acronym	Definition
Applicant	SPOT Terminals, LLC
bbbl	barrel
CAA	Clean Air Act
CFR	Code of Federal Regulations
DWP	deepwater port
ECHO	Enterprise Crude Houston
HGB	Houston-Galveston-Brazoria
MARAD	Maritime Administration
NAAQS	National Ambient Air Quality Standards
NO _x	nitrogen oxides
PLEM	pipeline end manifold
Project	SPOT Project
SIP	state implementation plan
SPOT	Sea Port Oil Terminal
SPOT Project	Sea Port Oil Terminal Deepwater Port Project
U.S.	United States
USCG	United States Coast Guard
USEPA	United States Environmental Protection Agency
VOC	volatile organic compound

1. INTRODUCTION

In accordance with the National Environmental Policy Act of 1969 and the Clean Air Act (CAA), the United States (U.S.) Department of Transportation, Maritime Administration (MARAD) and the United States Coast Guard (USCG) have prepared this draft General Conformity Determination to ensure that the Sea Port Oil Terminal (SPOT) Deepwater Port Project (Project or SPOT Project) conforms with the Texas State Implementation Plan (SIP). This review and determination is triggered by emissions from construction activities proposed by SPOT Terminals, LLC (the Applicant) that would exceed the applicable General Conformity *de minimis* threshold of 50 tons per year of nitrogen oxides (NO_x) or volatile organic compounds (VOCs) set by “Determinations of Attainment by the Attainment Date, Extensions of the Attainment Date, and Reclassification of Several Areas Classified as Moderate for the 2008 Ozone National Ambient Air Quality Standards” (84 Fed. Reg. 44238, August 23, 2019) within the Houston-Galveston-Brazoria (HGB) area. The HGB area includes Brazoria, Chambers, Fort Bend, Galveston, Harris, Liberty, Montgomery, and Waller counties, and extends 9 nautical miles offshore over state water. The attainment deadline for the HGB nonattainment area was July 20, 2021. Pursuant to Title 40 Code of Federal Regulations (CFR) Parts 93.155 and 156, this draft General Conformity Determination is being issued for public comment. Any person wishing to comment on this document may do so by either contacting MARAD or the USCG (efrain.lopez@dot.gov, or melissa.e.perera@uscg.mil, matthew.d.layman@uscg.mil). To ensure that comments are properly recorded and considered prior to issuance of the final General Conformity Determination, it is important that MARAD and the USCG receive your comment within the 30-day public comment period.

The SPOT Project would consist of construction of new onshore facilities and pipeline installation in Harris and Brazoria counties in Texas, as well as construction of offshore components associated with the deepwater port (DWP). For further information on the environmental impacts of the Project, including air quality impacts, see the Draft Environmental Impact Statement issued on January 31, 2020.¹ Construction and operation of the Project is contingent on MARAD approval (or approval with conditions) of a license.

2. SPOT PROJECT FACILITIES

The Project would consist of both onshore and offshore components. The onshore components of the Project would include:

- Modifications to the existing Enterprise Crude Houston (ECHO) Terminal, located on the southeast side of Houston, Texas just east of Pearland, Texas, including four electric motor-driven mainline crude oil pumps, four electric motor-driven booster crude oil pumps, and one measurement skid to support delivery of crude oil to the proposed Oyster Creek Terminal;
- One 50.1-mile, 36-inch-diameter pipeline from the existing ECHO Terminal to the proposed Oyster Creek Terminal (hereafter referred to as the ECHO to Oyster Creek Pipeline);

¹ The Draft Environmental Impact Statement can be viewed at www.regulations.gov under docket number MARAD-2019-0011.

- One pipeline interconnection from the existing Rancho II 36-inch-diameter pipeline to the ECHO to Oyster Creek Pipeline, at the existing Rancho II Junction facility;
- A new Oyster Creek Terminal, including six electric motor-driven mainline crude oil pumps with the capacity to push crude oil to the offshore pipelines at a rate of up to 85,000 barrels (bbl) per hour; four electric motor-driven booster crude oil pumps; seven aboveground storage tanks (each with a capacity of 685,000 bbl [600,000 bbl of working storage]) for a total onshore storage capacity of approximately 4.8 million bbl (4.2 million bbl working storage) of crude oil; metering equipment; two permanent and one portable vapor combustion units; and a firewater system;
- Two collocated 12.2-mile, 36-inch-diameter crude oil pipelines from the Oyster Creek Terminal to the shore crossing where the onshore pipelines meet the offshore pipelines supplying the SPOT DWP (hereafter referred to as the Oyster Creek to Shore Pipelines); and
- Ancillary facilities for the onshore pipelines, including ten mainline valves, of which six would be along the ECHO to Oyster Creek Pipeline and four along the Oyster Creek to Shore Pipelines, pig launchers for the ECHO to Oyster Creek Pipeline, and pig launchers and receivers for the Oyster Creek to Shore Pipelines.

The offshore components of the Project would include:

- Two collocated, bi-directional, 46.9-mile, 36-inch-diameter crude oil offshore pipelines for crude oil delivery;
- One fixed offshore platform with eight piles, four decks, and three vapor combustion units;
- Two single point mooring buoys to concurrently moor two very large crude carriers or other crude oil carriers with capacities between 120,000 and 320,000 deadweight tonnage for loading up to 365 days per year, including floating crude oil and vapor recovery hoses (SPOT 2019a, Application, Vol IIa, Section 1; EIA 2014; Maritime Connector 2019);
- Four pipeline end manifolds (PLEM)—two per single point mooring buoy—to provide the interconnection with pipelines;
- Four 0.66-nautical mile, 30-inch-diameter pipelines (two per PLEM) to deliver crude oil from the platform to the PLEMs;
- Four 0.66-nautical mile, 16-inch-diameter vapor recovery pipelines (two per PLEM) to connect the very large crude carrier or other crude oil carrier to the three vapor combustion units on the platform;
- Three service vessel moorings, located in the southwest corner of Galveston Area lease block 463 and;
- An anchorage area in Galveston Area lease block A-59, which would not contain any infrastructure.

The General Conformity analysis detailed herein outlines whether portions of the Project are applicable to General Conformity. Where General Conformity is applicable, the analysis determines whether construction and operation would conform to the applicable state SIP.

3. GENERAL CONFORMITY REGULATORY BACKGROUND

The U.S. Environmental Protection Agency (USEPA) promulgated the General Conformity Rule on November 30, 1993, to implement the conformity provision of Title I, section 176(c)(1) of the CAA. Section 176(c)(1) states that “any department, agency, or instrumentality of the federal government shall not engage in, support in any way or provide financial assistance for, license or permit, or approve, any activity that does not conform to an approved CAA implementation plan.” The General Conformity Rule is codified in 40 CFR Part 93, Subpart B.

The General Conformity Rule applies to all Federal actions occurring in areas specifically listed as nonattainment or maintenance areas in 40 CFR Part 81, Subpart C, except Federal actions related to transportation plans, programs, and projects developed, funded, or approved under Title 23 U.S.C. or the Federal Transit Act (49 U.S.C. § 1601 et seq).

3.1. GENERAL CONFORMITY REQUIREMENTS

Conformity under Title I, section 176(c)(1) of the CAA, means to conform to the purpose of a SIP to eliminate or reduce the severity and number of violations of the National Ambient Air Quality Standards (NAAQS) and achieving expeditious attainment of such standards. A proposed action or activity cannot:

- Cause or contribute to new violations of any NAAQS in any area;
- Increase the frequency or severity of any existing violation of any NAAQS in the area; or
- Delay timely attainment of any NAAQS, interim emission reductions, or other milestones in the area.

The General Conformity Rule applies to air pollutant emissions (direct and indirect) associated with Federal actions as defined in 40 CFR § 93.152 and ensures that the emissions do not contribute to air quality degradation or prevent the achievement of state and Federal air quality goals. General Conformity, if applicable to the action, refers to the process of evaluating the action to determine and demonstrate that it satisfies the requirements of the approved SIP. The purpose of the General Conformity Rule is to encourage Federal agencies to consult with state and local air quality districts so these regulatory entities are aware of the expected impacts of the Federal action and ensure the action meets the approved SIP.

3.2. GENERAL CONFORMITY PROCESS

The General Conformity process for a proposed action involves two distinct steps: applicability analysis and conformity determination.

1. The applicability analysis is an assessment of whether a proposed action is subject to the General Conformity Rule. If the General Conformity Rule is applicable for a proposed action, then a General Conformity Determination may be required.
2. A General Conformity Determination is an assessment of how a proposed action conforms to the applicable SIP.

An applicability analysis is required for any Federal action that is in a nonattainment or maintenance area and for which associated emissions associated may have the potential to exceed the applicability threshold

specified in 40 CFR § 93.153(b)(1) and (2). If emissions would exceed these thresholds, then a General Conformity Determination is required.

The General Conformity process does not include a review of new sources or existing source modifications that are subject to state or Federal New Source Review permitting. Under the General Conformity Rule, these sources are presumed to comply with the SIP by completing the applicable air permitting process with the jurisdictional agency.

If a General Conformity Determination is required for the proposed action, an evaluation must be performed to determine if the action conforms to the SIP. MARAD and the USCG are the co-lead Federal agencies responsible for processing the DWP license application submitted by the Applicant for the SPOT Project. MARAD’s Federal action will be to approve, disapprove, or approve with conditions a license for the SPOT DWP. As the licensing agency, MARAD is also responsible for making the General Conformity Determination. As required under General Conformity, an applicability analysis was performed for the Project to determine if the total direct and indirect emissions for criteria pollutants in nonattainment or maintenance areas would exceed the rates specified in 40 CFR § 93.153(b)(1) and (2). The results are presented in Section 4.0, General Conformity Applicability, and show that the SPOT Project would exceed the applicability threshold within the HGB 8-Hour Ozone (USEPA 2008) nonattainment area. MARAD’s General Conformity Determination is presented in Section 5.0, General Conformity Analysis.

4. GENERAL CONFORMITY APPLICABILITY

The General Conformity Rule applies only to actions in a nonattainment or maintenance area, and the applicability thresholds apply for those portions of the Project within each area. The General Conformity applicability thresholds are based on the attainment classification for each pollutant. Table 4-1 provides a summary of the applicable nonattainment areas, the pollutants/precursor for which they are listed, and the applicability thresholds for each pollutant/precursor.

Table 4-1: General Conformity Applicability Thresholds

Pollutant	Nonattainment / Maintenance Area	Pollutant or Precursor	Applicability Threshold (tons/year)
Ozone	Houston-Galveston-Brazoria, Texas	VOC and NO _x	50

Source: 84 Federal Register 164 (August 23, 2019)

NO_x = nitrogen oxides; VOC = volatile organic compounds

The SPOT Project’s onshore construction workspace would be within the HGB ozone nonattainment area. Since August 23, 2019 the area has been classified as a serious nonattainment area for ozone because the HGB area missed its 2008 ozone moderate nonattainment area attainment date of July 20, 2018 (as prescribed in 80 Fed. Reg. 12264, March 6, 2015). Additionally, the ozone nonattainment area extends 9 nautical miles offshore over state waters. Therefore, a portion of the offshore pipeline construction workspace would be within the nonattainment area. In addition, onshore operational emissions and a portion of the offshore operational emissions (helicopter and supply vessel trips to/from shore to the DWP) would also be subject to review under the General Conformity Rule.

Ground level ozone, is not emitted directly into the air, but is created by chemical reactions between NO_x and VOCs. Breathing ozone can trigger a variety of health problems including chest pain, coughing, throat irritation, and airway inflammation. It can also reduce lung function and harm lung tissue. Ozone can worsen bronchitis, emphysema, and asthma, leading to a need for increased medical care (USEPA 2019).

NO_x and VOCs are referred to as precursor pollutants, and are regulated to control ozone formation. NO_x, which are a combination of nitric oxide and nitrogen dioxide, react with VOCs in the presence of sunlight. NO_x may also react with water and ammonia in the atmosphere to form nitric acid, which is a significant component of smog and acid rain. VOCs are organic compounds that have a high vapor pressure at ambient temperatures. VOCs are ubiquitous, and include alcohols, solvents, methane, and ammonia, among others.

Table 4-2 presents the construction emissions that would occur within the HGB ozone nonattainment for the SPOT Project for calendar years 2022 to 2024, during which construction would be completed if the Project is licensed and retains the currently proposed schedule. The potential exists for the Project schedule to be shifted by 1 year, in which case the construction emissions for the SPOT Project presented in Table 4-2 would occur within the HGB ozone nonattainment area during calendar years 2023 to 2025.

Direct and indirect construction emissions in the HGB ozone nonattainment area are estimated to exceed the General Conformity threshold of 50 tons per year for NO_x. Emission sources that are subject to the General Conformity Applicability Analysis include the onshore and offshore Project construction emissions that are proposed to occur in 2023. As previously noted, the potential exists for the Project schedule to shift, in which case NO_x emissions may exceed 50 tons per year in 2024 rather than in 2023 (which would account for a 12-month delay). Note the emissions presented in Table 4-2 are based, in part, on USEPA MOVES (2014b version) emission factors for calendar years 2022 to 2024. USEPA MOVES (2014b version) emission factors for calendar years 2023 to 2025 would be lower than calendar years 2022 to 2024; therefore, the actual construction emissions would be slightly less than those presented in Table 4-2.²

Table 4-3 presents the estimated annual operational emissions, including helicopter trips and supply vessel transits, that would occur within the HGB ozone nonattainment area that are subject to review under the General Conformity Rule. These emissions would be below the General Conformity threshold.

Table 4-2: Construction Emissions Summary for the SPOT Project (2022 to 2024)

Nonattainment Area	Emissions (tons/year)	
	NO _x	VOC
Onshore Construction - Year 1	37.5	6.2
Offshore Construction – Year 1	0.0	0.0
<i>Total Project Year 1 (2022 or 2023)</i>	<i>37.5</i>	<i>6.2</i>
Onshore Construction – Year 2	25.9	5.2
Offshore Construction – Year 2	75.1	1.3
<i>Total Project Year 2 (2023 or 2024)</i>	<i>101.0</i>	<i>6.5</i>

² In general, USEPA MOVES (2014b version) emission factors decrease in later model years due to assumed fleet turnover, greater fuel efficiency, and increased emission controls in new equipment and vehicle models. A newer version of USEPA MOVES (MOVES3) was released in January 2021; however, projects that began their application during the grace period that ends January 9, 2023 can use MOVES (2014b) or MOVES3.

Nonattainment Area	Emissions (tons/year)	
	NO _x	VOC
Onshore Construction – Year 3	0.0	0.0
Offshore Construction – Year 3	0.5	<0.1
<i>Total Project Year 3 (2024 or 2025)</i>	<i>0.5</i>	<i><0.1</i>

Source: SPOT 2020, Updated Response to Information Requests #62, #276, #285, #316, and # 331.

NO_x = nitrogen oxides; VOC = volatile organic compound

Note 1: Total emissions in bold italics indicate exceedances of the *de minimis* threshold.

Note 2: These emissions were calculated using the USEPA’s MOVES 2014b modeling software (USEPA 2014) and the USEPA’s Port Emissions Inventory Guidance: Methodologies for Estimating Port-Related Goods Movement Mobile Source Emissions (USEPA 2020).³

Note 3: To account for a potential 12-month delay in the Project, conformity must be demonstrated for Project Year 2 emissions in 2023 and 2024.

Table 4-3: Operation Emissions Summary for the SPOT Project

Nonattainment Area	Emissions (tons/year)	
	NO _x	VOC
Annual Emissions	1.2	0.1

Source: SPOT 2019b, Response to Information Request #276.

NO_x = nitrogen oxides; VOC = volatile organic compound

Based on the emission estimates in Table 4-2, the NO_x emissions for the HGB ozone nonattainment area in either 2023 or 2024 would exceed the General Conformity applicability threshold value of 50 tons per year, as a precursor pollutant to ozone, depending on if the current Project schedule is retained or if there is a 12-month schedule delay. Because the emissions from the Project in the HGB ozone nonattainment area would exceed the applicability threshold for NO_x, a General Conformity Determination must be completed to assess the conformance of the Project’s emissions to the approved requirements and emission budgets within the Texas SIP for 2018 (TCEQ 2018). These emissions are referred to within this determination as the “General Conformity Project emissions.”

5. GENERAL CONFORMITY ANALYSIS

Under 40 CFR Part 93, Subpart B, a Federal action required to have a conformity determination for a specific pollutant would be determined to conform to the SIP if it meets one of several requirements in 40 CFR § 93.158.

The General Conformity Determination is based on the 8-hour ozone standard and the corresponding attainment date. For the HGB Ozone Nonattainment Area, the most recently approved SIP revision is the 2018 Houston-Galveston-Brazoria (HGB) Redesignation Request and Maintenance Plan for the One-Hour and 1997 Eight-Hour Ozone Standards (TCEQ 2018). These revisions were adopted by the TCEQ on December 12, 2018 and include a request that the HGB area be redesignated to attainment for the revoked one-hour and 1997 eight-hour ozone NAAQS. The revisions also include a maintenance plan that would ensure the area remains in attainment of the revoked one-hour and 1997 eight-hour ozone

³ Detailed information on calculation methodology for each emission source is available in the SPOT Application, Volume IIa, Appendix N (SPOT 2019a) and the Applicant’s Updated Responses to Information Requests #62, #276, #285, #316, and #331 (SPOT 2020), all of which can be found at www.regulations.gov under docket number MARAD-2019-0011.

standards through 2032. EPA’s approval of the redesignation request and maintenance plan for the revoked ozone standards was published in the Federal Register on February 14, 2020. The TCEQ adopted additional revisions to the SIP on March 4, 2020 based on a reclassification from moderate to serious for the 2008 eight-hour ozone NAAQS (TCEQ 2020). This SIP revision has been approved and was made final by the USEPA on May 10, 2021 (86 Fed. Reg. 24717, May 10, 2021).

All of the SPOT Project construction emissions above the General Conformity applicability thresholds are expected to occur in the HGB ozone nonattainment area. The criteria for determining conformity are provided in 40 CFR § 93.158. An action would be determined to conform for a specific pollutant if it meets the requirements of 40 CFR § 93.158(c) and any of the applicable requirements in 40 CFR § 93.158(a)(1) through (5). Section 40 CFR § 93.158(c) requires the total of direct and indirect emissions from the action to be in compliance with all relevant requirements and milestones contained in the applicable SIP. Sections 40 CFR § 93.158(a)(1) through (5) provide a number of pollutant- and state-specific options for demonstrating conformity. The Applicant has indicated that it would demonstrate compliance with the Texas SIP requirements, in accordance with 40 CFR § 93.158(c), as discussed in Section 5.2, Conformity with State Implementation Plan.

MARAD has reviewed the information provided by the Applicant and concludes the Project would comply with the Texas SIP requirements. MARAD submitted its General Conformity Determination to TCEQ and the USEPA, and the TCEQ has concurred with MARAD’s determination (Attachment A).

5.1. CONSISTENCY WITH RELEVANT TEXAS STATE IMPLEMENTATION PLAN REQUIREMENTS AND MITIGATION MEASURES

The NO_x emission control measures and regulations included in the Texas SIP that may potentially apply to the Project are listed in Table 5-1.

Table 5-1: Control Measures in the Texas State Implementation Plan

Emission Control Measures	Type	Potential Direct Applicability to the Project
Emissions Standards for Large Spark Ignition Engines	Federal	Construction equipment and marine vessels less than 175 horsepower
Reformulated Gasoline Program	Federal	Delivery and commuter vehicles
Vehicle Inspection and Maintenance Program	State	Delivery and commuter vehicles
Emissions Reduction Plan	State	Delivery and commuter vehicles, construction equipment
Texas Low Emission Diesel	State	Construction and off-road equipment, diesel fuel reformulation
Transportation Control Measures	State	Delivery and commuter vehicles
Voluntary Mobile Emissions Reduction Program	State	Delivery and commuter vehicles

Source: TCEQ 2019

Several of the measures identified in Table 5-1 would also indirectly affect the emissions from the proposed Project through implementation of new Federal standards for manufacturers (such as reformulated fuel and engines) contained in USEPA’s Tier 4 emission standards and reformulated gasoline program. During construction of the proposed facilities, SPOT would use construction equipment powered by diesel engines, which, depending on equipment type and age, are subject to these Federal programs. Implementation and compliance with these programs would be required of the

manufacturers. As such, the Project would meet the requirements of 40 CFR § 93.158(c) for complying with all relevant requirements and milestones contained in the Texas SIP.

5.2. CONFORMITY WITH STATE IMPLEMENTATION PLAN

The construction-related emissions caused by the Project in the HGB ozone nonattainment area are not specifically identified in the SIP; however, the SIP identifies air emission growth allowance for particular activities. Preliminary conversations with Texas Commission on Environmental Quality staff indicate that the construction-related emissions caused by the Project, along with all other construction-related emissions in the area, would not exceed the air emission growth allowance for 2023, or 2024 if the Project schedule shifts and NO_x emissions exceed 50 tons per year in 2024 rather than in 2023 (which would account for a 12-month delay). Specifically, the emissions from the action that are subject to general conformity requirements, combined with all other emissions in the non-attainment area, would not exceed the excess non-road emission creditable reductions available in the applicable SIP revision after demonstrating reasonable further progress and allocating a safety margin for transportation conformity purposes. The applicable SIP revision for this action is the *Reasonable Further Progress State Implementation Plan Revision for the Houston-Galveston-Brazoria 2008 Eight-Hour Ozone Nonattainment Area*, adopted December 15, 2016 and approved by the USEPA February 13, 2019 (84 Fed. Reg. 3708)

5.3. ONGOING COMPLIANCE

If licensed, MARAD would require, as a condition of the license, that the Applicant provide ongoing construction and operations progress reports, which would allow MARAD to track the progress of the activities subject to the General Conformity Determination, as outlined in 40 CFR § 93.157.

6. REFERENCES

- EIA (U.S. Energy Information Administration). 2014. “Oil Tanker Sizes Range from General Purpose to Ultra-Large Crude Carriers on AFRA Scale.” Accessed December 16, 2019. Available online at: <https://www.eia.gov/todayinenergy/detail.php?id=17991>.
- Maritime Connector. 2019. Wiki: Ship Sizes. Accessed April 17, 2019. Available online at: <http://maritime-connector.com/wiki/ship-sizes/>.
- SPOT (Sea Port Oil Terminals, LLC). 2019a. Deepwater Port License Application Sea Port Oil Terminal Project. Prepared by Ecology and Environment, Inc. and Hogan Lovells. Submitted to Maritime Administration and U.S. Coast Guard. January 2019.
- _____. 2019b. Response to Information Request #276. December 10, 2019.
- _____. 2020. Updated Response to Information Requests #62, #276, #285, and #316. December 17, 2020.
- TCEQ (Texas Commission on Environmental Quality). 2018. *SIP Revision: Houston-Galveston-Brazoria (HGB) Redesignation Request and Maintenance Plan for the One-Hour and 1997 Eight-Hour Ozone Standards, December 12, 2018*. Accessed December 3, 2019. Available online at: https://www.tceq.texas.gov/assets/public/implementation/air/sip/sipdocs/2018-19_OzoneRedesignations/2018_HGB_1hr-1997Ozone_Redes_archive.pdf.
- _____. 2019. Texas Air Quality Rules. Accessed December 3, 2019. Available online at: <https://www.tceq.texas.gov/airquality/sip/sipstrategies.html>.
- _____. 2020. Revisions to the Texas Air Quality Implementation Plan for the Control of Ozone Air Pollution. Accessed December 21, 2020. Available online at: https://www.tceq.texas.gov/assets/public/implementation/air/sip/hgb/hgb_serious_AD_2019/HGB_AD_SIP_19077SIP_adoption_web.pdf.
- USEPA (United States Environmental Protection Agency). 2008. “2008 National Ambient Air Quality Standards (NAAQS) for Ozone.” Accessed December 16, 2019. Available online at: <https://www.epa.gov/ground-level-ozone-pollution/2008-national-ambient-air-quality-standards-naaqs-ozone>.
- _____. 2014. Latest Version of Motor Vehicle Emission Simulator (MOVES). Accessed March 9, 2020. Available online at: <https://www.epa.gov/moves/latest-version-motor-vehicle-emission-simulator-moves>.
- _____. 2019. Ground Level Ozone Pollution. Accessed December 20, 2019. Available online at: <https://www.epa.gov/ground-level-ozone-pollution/ground-level-ozone-basics#formation>.
- _____. 2020. Port Emissions Inventory Guidance: Methodologies for Estimating Port-Related Goods Movement Mobile Source Emissions. Dated September, 2020. Available online at: <https://nepis.epa.gov/Exe/ZyPDF.cgi?Dockey=P10102U0.pdf>.

ATTACHMENT A

TCEQ Concurrence Letter

Jon Niermann, *Chairman*
Emily Lindley, *Commissioner*
Bobby Janecka, *Commissioner*
Toby Baker, *Executive Director*



TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

Protecting Texas by Reducing and Preventing Pollution

March 1, 2021

CDR Myles Greenway
Chief, Vessel and Facility Operating Standards Division
Commandant (CG-OES-2)
Environmental Standards Division
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Yvette Fields
Director, Office of Deepwater Port Licensing and Port Conveyance
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Maritime Administration (MAR-530)
1200 New Jersey Ave. SE
Room W21-310
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Via Email

Subject: General Conformity Concurrence for the Sea Port Oil Terminal Deepwater Port Project

Dear CDR Greenway and Yvette Fields:

The Texas Commission on Environmental Quality (TCEQ) completed its review of the December 2020 revision to the General Conformity Determination for the Sea Port Oil Terminal Deepwater Port Project received December 21, 2020 as well as the subsequent revisions received February 16, 2021 and February 23, 2021. The TCEQ reviewed the action in accordance with the general conformity requirements established in Title 40 Code of Federal Regulations (CFR) Part 93 Subpart B and concurs with the demonstration submitted by the United States Coast Guard (USCG) and United States Department of Transportation Maritime Administration (MARAD) that the project conforms to the Texas State Implementation Plan (SIP).

The proposed action is located in the Houston-Galveston-Brazoria (HGB) ozone nonattainment area, which is currently classified by the United States Environmental Protection Agency (EPA) as serious for the 2008 eight-hour ozone National Ambient Air Quality Standard (NAAQS) and marginal for the 2015 eight-hour ozone NAAQS. General conformity requirements apply according to the serious classification because that is the more stringent standard. The USCG and MARAD presented data demonstrating that the proposed action, spanning three years, would result in nitrogen oxides (NO_x) emissions that exceed the general conformity *de minimis* threshold of 50 tons per year (tpy) in project year two, with estimated emissions of 101.0 tpy. The proposed action is expected to occur from 2022 through 2024; however, due to a potential 12-month delay (2023 through 2025), conformity must be demonstrated for project year two emissions in 2023 and 2024.

The general conformity demonstration for this action relies on 40 CFR §93.158(a)(5)(i)(a), which requires that the state determine and document that the total direct and indirect emissions from the proposed action will not exceed the emissions budget specified in the applicable SIP revision. The general conformity emissions budget used for this demonstration was allocated from the *Reasonable Further Progress SIP Revision for the HGB 2008 Eight-Hour Ozone Nonattainment Area*, adopted by the TCEQ December 15, 2016 and approved by the EPA February 13, 2019 (84 FR 3708). Based on the general conformity emissions budget allocated from the applicable SIP revision, the TCEQ concurs with the USCG's and MARAD's demonstration.

Thank you for providing the information necessary to evaluate the proposed action. We appreciate any appropriate updates as this project progresses, and we look forward to working with you on upcoming projects in Texas. If you require further assistance on this matter, please contact Jamie Zech of the Air Quality Division at 512-239-3935 or jamie.zech@tceq.texas.gov.

Sincerely,



Donna F. Huff, Deputy Director
Air Quality Division

cc: Guy Donaldson, Branch Chief, EPA Region 6 Air & Radiation Division